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July 1, 2011

**VIA MARTIN.THOMAS@EPA.GOV
& VIA FEDERAL EXPRESS**

Mr. Thomas Martin, Esq.
U.S. EPA – Region 5, C-14J
Office of Regional Counsel
77 West Jackson Boulevard
Chicago, Illinois 60604-3590

Dear Mr. Martin:

I represent Tankstar, Inc. and I am writing in response to EPA's Demand for Reimbursement Letter for the ConocoPhillips Property in Cahokia, Illinois.

Tankstar, Inc. is not a Potentially Responsible Party under CERCLA nor is Tankstar otherwise legally liable for the contamination of Conoco's tank farm property for the following independent reasons:

- A. Tankstar is not a potentially responsible party for the Conoco site and has and had no connection with the site. There has never been any evidence or allegation that Tankstar had anything to do with the Conoco tank farm property. In fact, the corporation did not exist until December, 1986. It was not until 1998, when Tankstar purchased the shares of the parent company of Rogers Cartage Co. that Tankstar had any connection to Rogers and this does not make Tankstar a PRP for events happening before 1971. Rogers Cartage remains a company in active operations;
- B. The CERCLA claim is barred by the statute of limitations (whether three years or six) since EPA, IEPA, and Conoco have been studying the Conoco Property and IEPA and Conoco have been engaged in a clean-up beginning many years ago;
- C. The CERCLA claim is barred because IEPA is administering a clean-up of the Conoco property and IEPA has not relinquished authority nor separated out the Conoco property at issue in this case; and,
- D. To the extent the Government intends to assert liability of Rogers Cartage upon Tankstar, Tankstar states that res judicata and collateral estoppel bar the Government from raising or re-raising the same allegations and claims which were previously asserted against Rogers Cartage in the case of USA v. Rogers Cartage Company et al, United States District Court for the

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Southern District of Illinois Case No. 3:99-cv-00063 in which the District Court entered judgment for Rogers Cartage Company.

Concerning the short list of PRPs attached to the letter, pursuant to EPA's obligation to identify and notify PRPs, Tankstar suggests that Pharmacia and Solutia (successors to the old Monsanto Corporation) are additional potentially responsible parties since they were generators of PCB materials and arranged for the transport and disposal of PCB containing material in the neighborhood. The old Monsanto was the predominant local producer and shipper and disposer of PCBs. Pharmacia and Solutia have also stated that Rogers Cartage hauled materials for the old Monsanto (now Pharmacia & Solutia) Krummerich Plant and the Queeney Plant, that Rogers Cartage cleaned old Monsanto liquid chemical trailers, and that Rogers Cartage hauled for Amax (n/k/a Big River Zinc), Petrolite, Cerro Copper, Ethyl, Union Carbide, DuPont, Shell, Standard, Union 76, Armstrong Cork, Dial Corporation, Reagent Chemical, Vulcan Chemical, and Huntsman Chemical. According to Pharmacia and Solutia, the Old Monsanto/Pharmacia, Solutia, and the other listed companies are all PRPs for the contamination of the Conoco property as generators and arrangers of transport and disposal of PCBs on Conoco property.

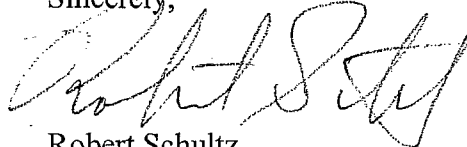
I also note, that the United States introduced testimony at the 2003 trial, that the truckwash on Conoco's property was owned and managed by Ernie Cambridge. (Charles Johnson testimony).

In addition, it appears the Conoco property was occupied during and perhaps prior to the 1950's by another company. What information has Conoco Phillips provided to the EPA as to the identity of this company and any other occupiers of the property?

Another aspect of this matter is that Rogers Cartage and Tankstar have submitted financial information to EPA on its inability to pay if assessed costs for this site. Rogers has not received EPA's decision on this point.

For the foregoing reasons, Tankstar is not liable for and cannot agree to pay EPA's response costs for the Conoco contamination.

Sincerely,

A handwritten signature in black ink, appearing to read "Robert Schultz", is written over a horizontal line.

Robert Schultz

RS/lc

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77 West Jackson Boulevard
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Dear Mr. Martin:

I represent Rogers Cartage Co. and I am writing in response to EPA's Demand for Reimbursement Letter for the ConocoPhillips Property in Cahokia, Illinois.

Rogers Cartage Co. is not legally liable for the contamination of Conoco's tank farm property for the following independent reasons:

- A. The CERCLA claim is barred by the statute of limitations (whether three years or six) since EPA, IEPA, and Conoco have been studying the Conoco Property and IEPA and Conoco have been engaged in a clean-up beginning many years ago;
- B. The CERCLA claim is barred because IEPA is administering a clean-up of the Conoco property and IEPA has not relinquished authority nor separated out the Conoco property at issue in this case; and,
- C. Res judicata and collateral estoppel bar the Government from raising or re-raising the same allegations and claims which were previously asserted against Rogers Cartage in the case of USA v. Rogers Cartage Company et al, United States District Court for the Southern District of Illinois Case No. 3:99-cv-00063 in which the District Court entered judgment for Rogers Cartage.

Concerning the short list of PRPs attached to the letter, pursuant to EPA's obligation to identify and notify PRPs, Rogers Cartage suggests that Pharmacia and Solutia (successors to the old Monsanto Corporation) are potentially responsible parties since they were generators of PCB materials and arranged for the transport and disposal of PCB containing material in the neighborhood. The old Monsanto was the predominant local producer and shipper and disposer of PCBs. Pharmacia and Solutia have stated that Rogers Cartage hauled materials for the old Monsanto (now Pharmacia & Solutia) Krummerich Plant and the Queeney Plant; that Rogers

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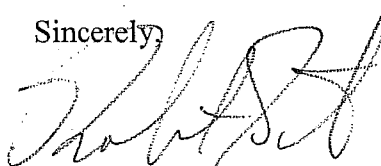
I also note, that the United States introduced testimony at the 2003 trial, that the truckwash on Conoco's property was owned and managed by Ernie Cambridge. (Charles Johnson testimony).

In addition, Rogers Cartage believes the Conoco property was occupied during and perhaps prior to the 1950's by another company and Rogers asks that the EPA seek information from Conoco Phillips as to the identity of this company and any other occupiers of the property.

In spite of the legal defenses listed above, and in spite of the existence of additional PRPs not named by the Government, Rogers Cartage would like to continue negotiations with the Government and Conoco concerning the resolution of claims against Rogers for the removal action and its costs. Rogers Cartage is a small trucking company without the financial ability to bear the costs of financing the removal action (roughly estimated at \$1.5 million dollars by EPA at a meeting and at \$2-3 million dollars by Conoco Phillips). Previously, Rogers Cartage's insurer declined coverage and defended the previous lawsuit brought by the Government under a reservation of rights. Rogers Cartage submitted to the EPA information on its inability to pay if assessed costs for this site. We are still waiting for EPA's decision on this point.

For the foregoing reasons, Rogers Cartage cannot agree to pay EPA's response costs for the Conoco property contamination.

Sincerely,



Robert Schultz

RS/lc

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ENVIRONMENTAL PROTECTION AGENCY

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